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CENTENE MANAGEMENT COMPANY, LLC
(erroneously named as CENTENE CORPORATION)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHANIL SHANKAR, an individual,

Plaintiff,

V.

CENTENE CORPORATION, a Delaware corporation; and DOES 1 through 25, inclusive,

Defendant.

Case No.

[Sacramento County Superior Court Case No.
34-2021-00301978]

NOTICE OF REMOVAL

Trial Date: None Set

Complaint Filed: June 4, 2021

1 **TO THE CLERK OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF
2 CALIFORNIA AND TO PLAINTIFF SHANIL SHANKAR AND HIS ATTORNEY OF
3 RECORD:**

4 PLEASE TAKE NOTICE that Defendant CENTENE CORPORATION¹
5 (“Defendant”), a Delaware corporation, removes to this Court the state court action described herein.
6 Defendant removes the captioned action from the Superior Court of the State California for the County
7 of Sacramento. Removal jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331, 1332,
8 1441(a) and (b), and 1446.

9 **I. STATEMENT OF JURISDICTION**

10 1. This Court has federal question jurisdiction over this action under 28 U.S.C. § 1331.
11 Section 1331 confers original jurisdiction on the federal district courts “of all civil actions arising
12 under the Constitution, laws, or treaties of the United States.” As set forth below, this case meets all
13 of section 1331’s requirements for removal because certain of the claims for relief in Plaintiff’s
14 Complaint (“Complaint” or “Compl.”) are founded upon federal law, *i.e.*, the federal Family and
15 Medical Leave Act (“FMLA”), 29 U.S.C. § 2601, *et seq.* (Compl., ¶¶ 57-70.)

16 2. This Court also has original jurisdiction over this action under the diversity of
17 citizenship statute. 28 U.S.C. § 1332(a). In relevant part, the diversity statute grants district courts
18 original jurisdiction over civil actions where the matter in controversy exceeds the sum or value of
19 \$75,000, exclusive of interest and costs, and is between citizens of different states. As set forth below,
20 this case meets all of the diversity statute’s requirements for removal and is timely and properly
21 removed by the filing of this Notice.

22 **II. PLEADINGS, PROCESS, AND ORDERS**

23 3. On or about June 4, 2021, Plaintiff filed his Complaint against Defendant in the
24 Superior Court of the State of California, Sacramento County, Case No. 34-2021-00301978 (“State
25 Court Action”). Plaintiff’s Complaint asserts the following causes of action: (1) disability
26 discrimination in violation of the Fair Employment and Housing Act (“FEHA”); (2) failure to prevent

27 ¹ Plaintiff was actually employed by Centene Management Company, LLC a wholly owned
28 subsidiary of Defendant Centene Corporation. (See Declaration of Tricia Dinkelman in Support of
Removal, ¶ 5.)

1 discrimination in violation of FEHA; (3) failure to engage in the interactive process in violation of
2 FEHA; (4) failure to provide reasonable accommodations in violation of FEHA; (5) retaliation in
3 violation of FEHA; (6) retaliation in violation of the California Family Rights Act (CFRA") and the
4 Family Medical Leave Act ("FMLA"); (7) interference with and failure to provide leave in violation
5 of CFRA and FMLA; (8) wrongful termination in violation of public policy; and (9) violation of Labor
6 Code §§ 226 and 1198.5.

7 4. On June 11, 2021, Plaintiff served Defendant with the Summons, Complaint, Civil
8 Case Cover Sheet, and Order Re: Delay in Scheduling Initial Case Management Conference. True and
9 correct copies of these documents, including attachments, are attached to the Declaration of
10 Christopher T. Benton ("Benton Decl."), ¶ 2, Exhibit A.

11 5. On or about July 9, 2021, Defendant filed a general denial and affirmative defenses to
12 the Complaint in Sacramento County Superior Court. A true and correct copy of Defendant's general
13 denial and affirmative defenses is attached to the Benton Declaration, ¶ 3, Exhibit B.

14 6. Pursuant to 28 U.S.C. section 1446(d), the attached exhibits constitute all process,
15 pleadings, and orders served on Defendant in the State Court Action. To Defendant's knowledge, no
16 other process, pleadings, or orders related to this case have been filed or served by any party in the
17 State Court Action. Benton Decl., ¶ 4.

18 7. To Defendant's knowledge, no proceedings related hereto have been heard in the State
19 Court Action. Benton Decl., ¶ 4.

20 **III. TIMELINESS OF REMOVAL**

21 8. This Notice of Removal is timely filed because it is being filed within thirty (30) days
22 of June 11, 2021, the date of service of the Summons and Complaint, and within one year of the
23 initiation of the State Court Action. *See* 28 U.S.C. § 1446(b).

24 **IV. FEDERAL QUESTION JURISDICTION**

25 9. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C.
26 Section 1331, which provides that "[t]he district courts shall have original jurisdiction of all civil
27 actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

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1 10. This is a civil action, which arises out of Plaintiff's employment with Defendant, in
 2 which Plaintiff expressly alleges two claims for relief under the federal Family and Medical Leave
 3 Act ("FMLA"). *See* Sixth and Seventh Causes of Action (Compl. ¶¶ 57-70). Plaintiff alleges that
 4 Defendant interfered with his FMLA rights and then retaliated against him for taking leave, in violation
 5 of FMLA. The FMLA is a federal statute that entitles eligible employees of covered employers to take
 6 unpaid, job-protected leave for specified family and medical reasons with continuation of group health
 7 insurance coverage under the same terms and conditions as if the employee had not taken leave. *See*
 8 29 U.S.C. § 2601, *et seq.* As such, this Court has original jurisdiction under Section 1331 because this
 9 case is "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331;
 10 *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) (federal jurisdiction exists when federal
 11 question presented on face of plaintiff's complaint).

12 11. Supplemental jurisdiction exists over Plaintiff's remaining state law claims. *See* 28
 13 U.S.C. § 1337. In any civil action in which this Court has original jurisdiction, it also has supplemental
 14 jurisdiction under 28 U.S.C. section 1337(a) over all state claims that are so related to the claims in
 15 the action within its original jurisdiction that they form part of the same controversy.

16 12. Here, Plaintiff's other causes of action are based on the same factual allegations that
 17 Plaintiff relies on to support Plaintiff's claims for FMLA violations. Plaintiff's causes of action for
 18 FMLA violations stem from his employment with Defendants, his disability, and his request for a
 19 leave of absence as a reasonable accommodation. Plaintiff's other causes of action brought under state
 20 law are also based on the same facts, events, transactions, and occurrences as the FMLA claims, in
 21 that the state law claims are also based on Plaintiff's employment with Defendants, his disability,
 22 and/or his request for a leave of absence as a reasonable accommodation. Accordingly, Plaintiff's state
 23 law claims are so related to his FMLA claims as to form part of the same case or controversy. *See* 28
 24 U.S.C. § 1337. Therefore, this Court has supplemental jurisdiction over Plaintiff's state law claims.

25 **V. DIVERSITY JURISDICTION**

26 13. This Action also meets the requirements of 28 U.S.C. section 1332(a) and may be
 27 removed to federal court pursuant to 28 U.S.C. section 1441(a) because it is a civil action: (1) between
 28 "[c]itizens of different states"; (2) wherein the amount in controversy exceeds the sum of \$75,000,

1 exclusive of interest and costs. 28 U.S.C. §§ 1332(a)(1), 1441(a).

2 **A. There is Complete Diversity Between the Parties**

3 14. Plaintiff alleges in his Complaint that he was at all relevant times an individual residing
4 in the State of California. (Compl., ¶ 1.) Allegations of residency in a state court complaint can create
5 a rebuttable presumption of domicile supporting diversity of citizenship. *Lew v. Moss*, 797 F.2d 747,
6 751 (9th Cir. 1986). Accordingly, Plaintiff is a citizen of the State of California. *Kanter v. Warner-*
7 *Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001) (a person's domicile is the place he or she resides with
8 the intention to remain).

9 15. Defendant was, at the time the action was commenced in state court, and still is, a
10 citizen of the states of Delaware and Missouri. (Declaration of Tricia Dinkelman ("Dinkelman Decl.")
11 ¶ 2.) Plaintiff was employed by Centene Management Company, LLC ("Centene Management"),
12 which is organized under the laws of Wisconsin and has its principal place of business in Missouri.
13 (*Id.* at ¶ 5).

14 16. For diversity purposes, a corporation "shall be deemed a citizen of any State by which
15 it has been incorporated, and of the State where it has its principal place of business." 28 U.S.C. §
16 1332(c)(1). As clarified by the United States Supreme Court in *Hertz Corp. v. Friend*, 559 U.S. 77,
17 78, (2010) "the phrase 'principal place of business' in § 1332(c)(1) refers to the place where a
18 corporation's high level officers direct, control, and coordinate the corporation's activities," *i.e.*, its
19 "nerve center."

20 17. Here, Defendant was and continues to be a corporation established under the laws of
21 the State of Delaware, having its principal place of business in the State of Missouri. (Dinkelman
22 Decl., ¶2; *see also* 28 U.S.C. §§1332(a)(1), (c)(1), 1441(b).) Specifically, the majority of Defendant's
23 corporate functions, including human resources, marketing, and executive management operate out of
24 Missouri. (Dinkelman Decl. ¶ 4.) As such, Defendant's executive and administrative functions critical
25 to its day-to-day operations are conducted in Missouri. (*Id.*) Additionally, the majority of Defendant's
26 senior officers and directors, who are responsible for developing strategy for its operations, work and
27 are based in Missouri. (*Id.*)

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1 18. Defendants designated as DOES 1-100 are fictitious defendants, are not parties to this
 2 action, have not been served, and are to be disregarded for the purpose of this removal. 28 U.S.C. §
 3 1441(a); *Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690-91 (9th Cir. 1998) (finding inclusion of
 4 Doe defendants in a state court complaint has no effect on removability.) Doe defendants need not
 5 consent to this removal.

6 **B. The Amount In Controversy Exceeds \$75,000.**

7 19. Based on the allegations in Plaintiff's Complaint, the amount in controversy is clearly
 8 greater than \$75,000, exclusive of interest and costs. Although Plaintiff's Complaint is silent as to the
 9 total amount of damages claimed, the failure of the Complaint to specify the total amount of damages
 10 sought does not deprive this Court of jurisdiction. Defendant need only establish by a preponderance
 11 of the evidence that Plaintiff's claims exceed the jurisdictional minimum. *Singer v. State Farm Mut.*
 12 *Auto Ins. Co.*, 116 F.3d 373, 376 (9th Cir. 1997); *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398,
 13 404 (9th Cir. 1996).

14 20. In the Complaint, Plaintiff asserts the following causes of action: (1) disability
 15 discrimination in violation of the Fair Employment and Housing Act ("FEHA"); (2) failure to prevent
 16 discrimination in violation of FEHA; (3) failure to engage in the interactive process in violation of
 17 FEHA; (4) failure to provide reasonable accommodations in violation of FEHA; (5) retaliation in
 18 violation of FEHA; (6) retaliation in violation of the California Family Rights Act (CFRA") and the
 19 Family Medical Leave Act ("FMLA"); (7) interference with and failure to provide leave in violation
 20 of CFRA and FMLA; (8) wrongful termination in violation of public policy; and (9) violation of Labor
 21 Code §§ 226 and 1198.5. *See* Complaint, pp. 4-16.

22 21. Plaintiff also seeks damages for "emotional distress, humiliation, mental anguish, and
 23 embarrassment, as well as the manifestation of physical symptoms." *Id.*, ¶¶ 27, 33, 40, 47, 54, 62, 68,
 24 and 74. Although Defendant denies it should be liable for the damages alleged in Plaintiff's Complaint,
 25 for purposes of determining whether the minimum amount in controversy has been satisfied, the Court
 26 must presume that Plaintiff will prevail on each and every one of his claims. *Kenneth Rothschild Trust*
 27 *v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993, 1001 (C.D. Cal. 2002); *Korn v. Polo Ralph*
 28 *Lauren Corp.*, 536 F. Supp. 2d 1199, 1205 (E.D. Cal. 2008) (holding that the inquiry is not how much

1 defendant will owe, but the amount put in controversy by the complaint).

2 22. The ultimate inquiry is the amount that is put “in controversy” by Plaintiff’s Complaint,
3 and not how much, if anything, Defendant will actually owe. *Rippee v. Boston Market Corp.*, 408 F.
4 Supp. 2d 982, 986 (S.D. Cal. 2005); *see also Schere v. Equitable Life Assurance Soc’y of the U.S.*, 347
5 F.3d 394, 399 (2d Cir. 2003) (recognizing that the ultimate or provable amount of damages is not what
6 is considered in the removal analysis; rather, it is the amount put in controversy by the Plaintiff’s
7 complaint). Economic damages, non-economic damages, general damages and attorney’s fees are
8 included in determining the amount in controversy. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-
9 56 (9th Cir. 1998) (prayer for attorney’s fees is considered when determining the amount in
10 controversy where underlying statute provides for attorney’s fees as part of potential recovery); *see*
11 *also Gibson v. Chrysler Corp.*, 261 F.3d 927, 942-43 (same).

12 23. A removing party does not need to prove actual facts but rather need only include a
13 “short and plain statement” setting forth “a plausible allegation that the amount in controversy exceeds
14 the jurisdictional threshold.” *Sasso v. Noble Utah Long Beach, LLC*, 2015 U.S. Dist. LEXIS 25921
15 (C.D. Cal. March 3, 2015), citing *Dart Cherokee Basin Operating Co. v. Owens*, 135 S.Ct. 547, 554
16 (2014); *Ponce v. Medical Eyeglass Ctr., Inc.*, 2015 U.S. Dist. LEXIS 98517, *2 (C.D. Cal. July 27,
17 2015), citing *Dart Cherokee Basin Operating Co. v. Owens*, 135 S.Ct. 547, 554 (2014). Moreover,
18 Defendant does not need to submit evidence to support its notice of removal. *Dart Cherokee*, 135 S.Ct.
19 at 553. Defendant need only plausibly allege that the amount in controversy exceeds \$75,000. *Id.*
20 (stating that “the defendant’s amount-in-controversy allegation should be accepted when not contested
21 by the plaintiff or questioned by the court”).

22 24. **Lost Wages.** In his Complaint, Plaintiff seeks compensation for loss of income as a
23 result of his alleged wrongful termination of employment with Defendant. *See Compl.* ¶¶ 26, 32, 39,
24 46, 53, 61, 68, and 73. Compensatory damages are considered when determining the amount in
25 controversy. *Bell v. Preferred Life Assurance Soc’y of Alabama*, 320 U.S. 238, 240 (1943). Therefore,
26 this amount helps to establish the jurisdictional minimum amount in controversy to establish diversity
27 jurisdiction. (*Id.*)

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1 25. Plaintiff was allegedly separated effective January 12, 2021. (Compl., ¶19. At that
 2 time, Plaintiff was earning approximately \$51,417.60 annually, or \$988.80 per week. (Declaration of
 3 Jaclyn Pettinari (“Pettinari Decl.”), ¶ 3.) Both past and future lost wages should be taken into account
 4 for purposes of evaluating the amount in controversy. *See Kroske v. U.S. Bank Corp.*, 432 F.3d 976,
 5 980 (9th Cir. 2005); *James v. Childtime Childcare, Inc.*, 2007 U.S. Dist. LEXIS 43753, at *4 n.1 (E.D.
 6 Cal. June 1, 2007) (“The court evaluates the amount in controversy at the time of removal, but it may
 7 consider both past and future lost wages.”). There have been approximately 26 weeks from the date
 8 Plaintiff alleges he was terminated (January 12, 2021), until the date of this removal, which would
 9 amount to at least \$25,708.80 in back pay. That amount will of course continue to accrue as this
 10 litigation continues. Further, using a conservative estimate of two years between the filing of
 11 Plaintiff’s Complaint and the commencement of trial for this action, back pay would total
 12 approximately \$102,835.20. This amount alone exceeds the required \$75,000 amount in controversy
 13 to establish diversity jurisdiction.

14 26. In addition, to the extent Plaintiff seeks future damages or front pay as a result of
 15 Defendant’s alleged wrongful conduct, such awards in California often span several years. *See Smith*
 16 *v. Brown-Forman Distillers Corp.*, 196 Cal. App. 3d 503, 518 (1989) (front pay until mandatory
 17 retirement age reached); *Rabago-Alvarez v. Dart Indus.*, 55 Cal. App. 3d 91, 92 (1976) (front pay
 18 award of four years); *Drzewiecki v. H & R Block, Inc.*, 24 Cal. App. 3d 695, 705 (1972) (front pay
 19 award of ten years); *Harrod v. Bass Pro Outdoor World, LLC*, 2018 WL 705541, at *2 (C.D. Cal. Feb.
 20 5, 2018) (accepting defendant’s calculation of plaintiff’s front pay damages for one year of wages).
 21 Even conservatively estimating that Plaintiff seeks front pay damages of only one year, the amount of
 22 front pay in controversy in this case is at least \$51,471.60.

23 27. **Emotional Distress.** Plaintiff’s emotional distress damages are likewise properly
 24 considered in determining the amount in controversy. In cases such as the instant action, the amount
 25 in controversy may be satisfied by the pleading of several different types of damages in the complaint,
 26 even though the exact dollar amount of such damages is not estimated by the removing party. *See*
 27 *Simmons*, 209 F. Supp. 2d at 1031-35 (finding that the plaintiff’s alleged lost income of \$25,600 at the
 28 time of removal, included with unspecified amounts for medical expense damages, emotional distress

1 damages, punitive damages, and attorneys' fees anticipated to incur through trial, satisfy the amount
 2 in controversy required to establish diversity jurisdiction). Here, Plaintiff alleges he "has suffered and
 3 continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the
 4 manifestation of physical symptoms" and seeks unspecified emotional distress damages. (See Compl.,
 5 ¶¶ 27, 33, 40, 47, 54, 62, 68, and 74.) The following cases involving disability discrimination, failure
 6 to accommodate, wrongful termination, and related claims, illustrate that emotional distress damages
 7 alone may be substantial and exceed the threshold amount in controversy.

8 28. In *Ko v. Square Group, LLC*, 2014 WL 8108413 (Cal. Sup. June 16, 2014), the plaintiff,
 9 who alleged she was discriminated and retaliated against for taking medical leave and wrongfully
 10 terminated, was awarded \$125,000 in emotional distress damages. In *Cordero v. Catwalk to Sidewalk
 11 Inc.*, 2019 WL 5197104 (Cal. Sup. Sept. 25, 2019), a plaintiff who had alleged causes of action for
 12 disability discrimination, failure to accommodate, failure to engage in the interactive process,
 13 retaliation, and a failure to prevent discrimination, all in violation of FEHA, was awarded \$160,000
 14 for emotional pain and suffering. In *Hernandez v. Regents of the University of California*, 2009 WL
 15 6045700 (Cal. Sup. Sept. 2009), a jury in Alameda County issued a \$266,347 award for pain and
 16 suffering to a plaintiff-employee who determined that the plaintiff's employer wrongfully terminated
 17 her in retaliation for demanding reasonable accommodations. A jury in Sacramento County awarded
 18 a plaintiff \$400,000 for past pain and suffering on causes of action for retaliation, failure to prevent
 19 retaliation, failure to provide reasonable accommodation, and failure to engage in the interactive
 20 process. *Weyhe v. Wal-Mart Stores, Inc.*, 2010 WL 3411462 (Cal. Sup. July 1, 2010). In *Woods v.
 21 Greystar Management Services, LP*, 2019 WL 2755111 (Cal. Sup. Apr. 11, 2019), a Los Angeles jury
 22 found in favor of a plaintiff on claims of wrongful termination, disability discrimination, failure to
 23 accommodate, failure to engage in the interactive process, and failure to prevent discrimination and
 24 awarded \$500,000 in emotional distress damages. Thus, the emotional distress damages sought by
 25 Plaintiff are potentially substantial and would exceed the threshold amount in controversy.

26 29. **Attorneys' Fees.** Plaintiff's Complaint also seeks attorneys' fees. (Compl., ¶¶ 63, 70,
 27 79, 86 and Wherefor Clause at ¶3.) Plaintiff also asserts claims in violation of FEHA (Cal. Govt. Code
 28 § 12940 *et seq.*) which include a provision that entitles the prevailing party to the prevailing party's

1 reasonable attorneys' fees. Cal. Govt. Code § 12965. Recoverable attorneys' fees also are included in
 2 the amount in controversy calculation for purposes of establishing diversity jurisdiction. *See Galt G/S*
 3 v. *JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998) (prayer for attorneys' fees included in
 4 determining the amount in controversy where potentially recoverable by statute); *Brady v. Mercedes-*
 5 *Benz USA, Inc.*, 243 F. Supp. 2d 1004, 1010-11 (N.D. Cal. 2002) (court may estimate the amount of
 6 reasonable attorneys' fees likely to be recovered by a plaintiff if she were to prevail in determining
 7 whether amount in controversy exceeds \$75,000); *Sasso v. Noble Utah Long Beach, LLC*, 2015 U.S.
 8 Dist. LEXIS 25921, at *11 (C.D. Cal. March 3, 2015) (reasoning that "when authorized by an
 9 underlying statute, the better view is to consider post-removal attorneys' fees because they are part of
 10 the total 'amount at stake.'"). In 2001, the California Supreme Court upheld an award of attorneys'
 11 fees under FEHA for \$1,088,231. *See Flannery v. Prentice*, 26 Cal. 4th 572 (2001); *see also Jadwin*
 12 v. *Cty. of Kern*, 767 F. Supp. 2d 1069, 1141 (E.D. Cal. 2011) (\$535,700 in attorney's fees awarded
 13 under FEHA); *Akers v. Cty. of San Diego*, 95 Cal. App. 4th 1441, 1452-53 (2002) (lower court awarded
 14 \$249,349 in attorneys' fees in wrongful termination in violation of public policy and discrimination
 15 case brought under FEHA); *Dwyer v. Crocker Nat'l Bank*, 194 Cal. App. 3d 1418 (1987) (\$75,258 in
 16 attorneys' fees awarded under FEHA); *Zissu v. Bear, Stearns & Co.*, 805 F.2d 75 (9th Cir. 1986)
 17 (\$550,000 in attorneys' fees awarded under FEHA). Therefore, attorney's fees awarded pursuant to
 18 FEHA, in the event Plaintiff is successful, could add over \$100,000 to the amount in controversy for
 19 purposes of establishing diversity jurisdiction.

20 **30. Punitive Damages.** Plaintiff also seeks punitive and exemplary damages in her
 21 Complaint, but does not specify an amount. (*See* Compl., ¶¶ 28, 35, 42, 49, 56, 75, 84; Wherefore
 22 Clause, at ¶ 7.) The claimed punitive damages are relevant in determining the amount in controversy.
 23 *See Simmons*, 209 F. Supp. 2d at 1033. In *Woods v. Greystar Management Services, LP*, 2019 WL
 24 2755111 (Cal. Sup. Apr. 11, 2019), discussed above, a jury awarded \$600,000 in punitive damages.
 25 In *Ko v. The Square, Grp.*, 2014 WL 8108413 (Cal. Sup. June 16, 2014), also discussed above, a jury
 26 awarded the plaintiff \$500,000 in punitive damages. In *Abarca v. Citizen's of Humanity LLC*, 2017
 27 WL 2831361 (Cal. Sup. March 9, 2017), a Los Angeles jury awarded the plaintiff \$550,000 punitive
 28 damage award when the plaintiff alleged he was subjected to retaliation, wrongful termination, failure

1 to accommodate, failure to engage in the interactive process, and disability discrimination. In *Samson*
2 v. *Wells Fargo Bank, N.A.*, 2020 WL 1890594 (C.D. Cal. Mar. 13, 2020), a jury awarded \$400,000
3 punitive damage award on a FEHA retaliation claim for taking medical leave. These cases
4 demonstrate the potential for a large punitive damage award that exceeds the minimum threshold
5 requirement for this Court if Plaintiff were to prevail on her claims.

6 31. Based on Plaintiff's claims for lost wages, emotional distress, punitive damages, and
7 attorney fees, the threshold amount in controversy is met here. Accordingly, on the basis of diversity
8 jurisdiction, this court has subject matter jurisdiction under 28 U.S.C. section 1332 and removal is
9 authorized under 28 U.S.C. section 1441(b).

10 32. The above damages, including lost wages, emotional distress damages, and attorney's
11 fees, exclusive of interest and costs, are aggregated to ascertain whether Plaintiff's allegations satisfy
12 the minimum amount in controversy. *Bank of Cal. Nat'l Ass'n v. Twin Harbors Lumber Co.*, 465 F.2d
13 489, 491 (9th Cir. 1972); *see also Coleman v. Assurant, Inc.*, 463 F. Supp. 2d 1164, 1168 (D. Nev.
14 2006) ("It is well established that punitive damages are part of the amount in controversy in a civil
15 action.") (citing *Gibson v. Chrysler Corp.*, 261 F. 3d 927, 945 (9th Cir. 2001)); *Richmond v. All State*
16 *Insurance*, 897 F. Supp. 447, 450 (S.D. Cal. 1995) (general and special damages included in the
17 amount in controversy). Back pay damages alone are at least \$102,835.20, which exceeds the \$75,000
18 amount in controversy requirement to establish diversity jurisdiction. Additionally, when aggregating
19 all damages (back pay, front pay, emotional distress, and attorneys' fees), the amount more than
20 exceeds this minimum amount in controversy.

21 **VI. VENUE**

22 33. Venue lies in the Eastern District of California pursuant to 28 U.S.C. sections 84(b)
23 and 1441(a). This action was originally brought in the Superior Court of the State of California, County
24 of Sacramento. Actions arising in Sacramento County shall be commenced in the Sacramento
25 Division of the Eastern District. Eastern District Local Rule 120(d).

26 **VII. NOTICE OF REMOVAL**

27 34. Contemporaneously with the filing of this Notice of Removal in the United States
28 District Court for the Eastern District of California, written notice of such filing will be given by the

1 undersigned to Plaintiff's counsel of record. In addition, a copy of this Notice of Removal will be
2 filed with the Clerk of the Superior Court of the State of California, County of Sacramento.

3 **VIII. CONCLUSION**

4 35. WHEREFORE, Defendant removes the action now pending against it in the
5 Sacramento County Superior Court to the United States District Court for the Eastern District of
6 California, and requests that this Court retain jurisdiction for all further proceedings.

7 Dated: July 12, 2021

LITTLER MENDELSON P.C.

9 */s/ Christopher T. Benton*
10 BARBARA A. BLACKBURN
11 CHRISTOPHER T. BENTON
12 Attorneys for Defendant
13 CENTENE CORPORATION

14 4819-5599-9214.1 / 108840-1052